IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Bail Appl..No. 6513 of 2007

(CRIME NO. 19/2007 OF EXCISE RANGE OFFICE, ALATHUR, PALAKKAD DIST.)

PETITIONER/ACCUSED:

KUMARAN, S/O. SETHU,
AGED 19 YEARS, CHERUVANCHY PARAMBU,CHITTALAMCHERRY
ALATHUR TALUK, PALAKKAD DISTRICT.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. EXCISE INSPECTOR,
ALATHUR RANGE, PALAKKAD DISTRICT.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6513 of 2007

Dated this the 29th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under the Kerala Abkari Act. He was allegedly found to keep in his possession 6 litres of arrack. He allegedly ran away on seeing the detecting excise party. The alleged incident took place on 2.7.07. In the seizure mahazar as well as in the occurrence report, name of the petitioner is shown clearly as the sole accused. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The allegations are being raised against him falsely. In these circumstances anticipatory bail may be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all available inputs point convincingly to the guilt of the petitioner. There is no reason at this stage to assume that the allegations are false or are being raised vexatiously against the petitioner. The petitioner may be directed to surrender before the Investigating Officer or the learned Magistrate

having jurisdiction and then seek regular bail, submits the learned Public Prosecutor .

4. Having considered all the relevant inputs, I am satisfied that there is merit in the opposition by the learned Public Prosecutor . I am unable to perceive any features in this case which justify or demands the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek bail in the regular and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-